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THE HONORABLE JOHN C. COUGHENOUR

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

WASHINGTON TOXICS COALITION;) Civ. No. C04-1998C
NORTHWEST COALITION FOR)
ALTERNATIVES TO PESTICIDES;)
NATIONAL WILDLIFE FEDERATION;)
DEFENDERS OF WILDLIFE; NATURAL) DECLARATION OF DAVID DILWORTH
RESOURCES DEFENSE COUNCIL;)
CENTER FOR BIOLOGICAL DIVERSITY;)
PACIFIC COAST FEDERATION OF)
FISHERMEN'S ASSOCIATIONS;)
INSTITUTE FOR FISHERIES RESOURCES;)
and HELPING OUR PENINSULA'S)
ENVIRONMENT,)

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF)
INTERIOR; UNITED STATES)
DEPARTMENT OF FISH AND WILDLIFE)
SERVICE; UNITED STATES)
DEPARTMENT OF COMMERCE; and)
NATIONAL MARINE FISHERIES)
SERVICE,)

Defendants,

1)
 2 and)
 3)
 4 CROPLIFE AMERICA, WASHINGTON)
 5 FRIENDS OF FARMS AND FORESTS,)
 6 WASHINGTON STATE POTATO)
 7 COMMISSION, NATIONAL POTATO)
 8 COUNCIL, WASHINGTON STATE FARM)
 9 BUREAU, IDAHO FARM BUREAU)
 10 FEDERATION OF WHEAT GROWERS,)
 11 WASHINGTON GOLF COURSE)
 12 SUPERINTENDENTS ASSOCIATION, HOP)
 13 GROWERS OF WASHINGTON, AND)
 14 WASHINGTON STATE HORTICULTURAL)
 15 ASSOCIATION,)
 16)
 17 Defendant-Intervenors.)
 18)

19 I, David Dilworth, do hereby declare as follows:

20 1. I have personal knowledge of the following and could competently testify thereto
 21 if called as a witness.

22 2. I live on the Monterey Peninsula in California.

23 3. I am a founding trustee and the executive director of Helping Our Peninsula's
 24 Environment ("HOPE"), which was founded in 1998. HOPE is a non-profit, public interest
 25 organization that works to protect the natural land, air, and water ecosystems of the Monterey
 26 Peninsula through science, law, education, public information, and advocacy.

4. HOPE has approximately 200 supporters, the majority of whom reside on the
 Monterey Peninsula. Among other conservation initiatives, HOPE advocates on behalf of listed
 species and their habitats that are found on the Monterey Peninsula. There are dozens of species
 on the Monterey Peninsula that are listed as threatened or endangered under the Endangered
 Species Act ("ESA"). They include: the Southern sea otter, California condor, California red-
 legged frog, San Joaquin kit fox, California tiger salamander, and the vernal pool fairy shrimp.

1 5. The habitat of the California red-legged frog includes the Monterey Peninsula,
2 and one of the three largest existing populations of the frog is located adjacent to the Monterey
3 Peninsula, at Rancho San Carlos. The ranch abuts the Carmel River, the primary source of
4 drinking water for the peninsula.

5 6. I have a strong personal interest in the survival and recovery of the California red-
6 legged frog and the preservation of its habitat. I am familiar with the call of the frog, and I have
7 seen them in the wild. I participate in a wide variety of recreational activities in my personal
8 time that take me into the frog's habitat, including hiking and rafting along the Carmel River and
9 its tributaries, nature photography, and enjoying solitude. For example, I regularly go into
10 Hatton Canyon, near my home, through which a tributary of the Carmel River flows. A few
11 years ago, a state biologist found a red-legged frog in this canyon. I often lead the public on
12 ecosystem educational walks and hikes around the Carmel River and its tributaries to show them
13 what the frog's habitat looks like. The red-legged frog was also found in the native Monterey
14 Pine Forest ecosystem, an imperiled forest that HOPE has focused a significant percentage of its
15 conservation efforts protecting. The Monterey Pine Forest is near my home, and I visit it almost
16 daily. I have every intention of continuing these activities, which I enjoy very much, this year
17 and in the future, as long as I am able to do so.

18 7. I am concerned about the survival of the red-legged frog. The loss of the frog, as
19 well as the continued destruction of its habitat, would impact me both intellectually and
20 emotionally. I do not want to see the loss of any species that is native to the Monterey Peninsula,
21 especially a species that proliferated in this region prior to human interference with its
22 environment. Based on my scientific understanding, I consider the frog both a keystone species
23 and an indicator species of the health of the Carmel River watershed. The frog's disappearance
24
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1 would indicate that the watershed's health has become severely degraded by human activities.
2 Moreover, the disappearance of frogs would in turn upset ecosystem balances and contribute to
3 further degradation. Once the frog disappears, it may be wholly impossible for the ecosystem to
4 restore itself. This would adversely impact my enjoyment of my home area a great deal, and
5 cause me substantial personal distress. It would also represent a major institutional failure for
6 HOPE.

7 8. The red-legged frog's habitat must be protected for it to survive and recover.
8 Every living being has to have a place to live with the proper conditions for its survival. Without
9 protected habitat, the frogs' aquatic and riparian areas will continue to be abused by humans and
10 the consequences of their actions, including the significant effects of pesticide run-off and drift
11 that contribute to the decline of the red-legged frog and its habitat. I understand that pesticide
12 exposure is a significant contributing factor in the decline of the frog's habitat and the frog's
13 survival. Pesticide run-off and drift from agricultural and other uses enters the frog's
14 environment through air and water, becomes part of its food chain, and is absorbed into the
15 frog's body through its skin. The EPA, FWS, and NOAA Fisheries should comply with the ESA
16 to ensure that pesticide uses that adversely impact listed species such as the California red-legged
17 frog are curtailed or limited to restrict these adverse impacts.

18 9. On March 25, 2003, HOPE submitted comments to the EPA, FWS, and NOAA
19 Fisheries regarding the agencies' proposed rule under the counterpart regulations of the ESA to
20 weaken protections for listed species from pesticides. HOPE opposed the proposed rule, and
21 commented to the agencies that the proposed changes violated NEPA and the ESA and would
22 improperly and unlawfully accelerate the release of toxic pesticides into the environment where
23 they would affect listed species and the habitats on which they rely.

1 10. The continued existence of the California red-legged frog, and other listed
2 species, is jeopardized by the actions of NOAA Fisheries and FWS (collectively, the “Services”).
3 The Services have violated the ESA by delegating to EPA their mandatory ESA duties to ensure
4 that federal actions in registering and re-registering pesticides do not take listed species or
5 destroy or adversely modify their habitat. HOPE and its supporters have an interest in
6 maintaining listed species and their habitat, and are harmed by the Services’ approval of EPA’s
7 pesticide risk assessment methods, which are not adequately protective of the California red-
8 legged frog and other listed species. The Services violated the ESA when they approved EPA’s
9 pesticide risk assessment methods, because they fail to account for the cumulative effects of
10 pesticides on listed species, or the sublethal effects of pesticides that impair endangered species’
11 abilities to resist disease and predation in the wild. The Services and EPA’s new pesticide
12 consultation rule weakens protections for listed species under the ESA and federal environmental
13 laws, and is causing an overall decline in the health of the California red-legged frog and its
14 ecosystems on the Monterey Peninsula.

15 11. The actions of the Services in weakening protections for endangered species from
16 pesticides will cause the California red-legged frog to continue to decline and to likely become
17 extinct. This would deprive me of the benefits I currently enjoy from the existence of this
18 species. I also am concerned that pesticide use that degrades the red-legged frog’s aquatic
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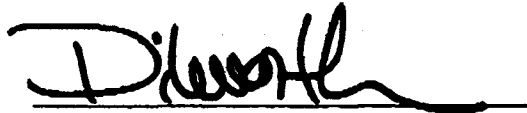
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1 habitat throughout California will also lead to the decline or extinction of other species that rely
2 on this habitat. This would reduce my ability to use and enjoy such areas.

3 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true
4 and correct to the best of my knowledge.

5 Executed this 13th day of May, 2005 in Carmel, California.

6 
7
8 David Dilworth